

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

200 W. Washington, Suite 301
Indianapolis, IN 46204
(317) 233-0696
<http://www.in.gov/legislative>

FISCAL IMPACT STATEMENT

LS 6516

BILL NUMBER: SB 114

NOTE PREPARED: Feb 2, 2010

BILL AMENDED: Feb 1, 2010

SUBJECT: Government Ethics.

FIRST AUTHOR: Sen. Miller
FIRST SPONSOR: Rep. Bauer

BILL STATUS: As Passed Senate

FUNDS AFFECTED: X **GENERAL**
DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: (Amended) *Statements of Economic Interests:* This bill provides that legislative statements of economic interests are not required to report gifts made to the filer or purchases by a lobbyist from the filer's business. It requires legislative branch lobbyists to report such expenses. It requires the Lobby Registration Commission to compile reports of these purchases and gifts and provide them to the legislator or candidate.

Legislator Appearances or Speeches: The bill provides that legislators may not accept honoraria for appearances or speeches but may accept payment or reimbursement of travel expenses for appearances or speeches.

Lobbyist Gifts: The bill reduces the amount of a single gift or expenditure that must be reported by a lobbyist from \$100 to \$50. It reduces the calendar year threshold of gifts and expenditures that must be reported from \$500 to \$250. It provides that a lobbyist may not make a gift with a value of more than \$50 to a legislative person unless the lobbyist receives the approval of the legislative person before making the gift and informs the legislative person the cost of the gift the lobbyist wants to make at the time the lobbyist seeks consent to the gift. The bill provides that a lobbyist may not pay expenses for out-of-state travel for a legislative person with exceptions for: (1) "public policy meetings" approved by the Speaker of the House of Representatives or the President Pro Tempore of the Senate; or (2) if the expenses are associated with the legislative person's service as an officer, member of the board of directors, employee, or independent contractor of the person paying the expenses. It also requires "legislative liaisons" of agencies in the executive branch of state government and of state educational institutions to report certain expenditures annually to the Lobby Registration Commission.

Lobbying: This bill provides that the definition of a legislative branch "lobbyist" does not include public officials, public employees, or a national organization established for the education and support of legislators, legislative staff, or related government employees. It provides that legislators who are candidates for reelection in 2010 may not become a lobbyist or legislative liaison before January 1, 2012, and that beginning with this date, a legislator must wait 365 days after leaving the General Assembly before becoming a lobbyist or legislative liaison.

Lobbyist Reporting Requirements: The bill requires expenditures that can be "clearly and reasonably" attributed to a particular legislative person to be reported with respect to that legislative person. It requires that a lobbyist's expenditure report must include expenses for a function or activity to which all or any of the following are invited: (1) members of the General Assembly; (2) members of the House of Representatives; (3) members of the Senate; (4) members of a standing or other committee established by the rules of the House of Representative or Senate; (4) members of a study committee; or (5) members of a caucus of the House of Representatives or the Senate. It establishes rules for reporting an expenditure made by more than one lobbyist, the reporting of expenditures with respect to a particular legislative person, and allocation of expenditures made with respect to several legislative persons. It changes the time during which a lobbyist must report certain expenditures with a legislator from 7 days to 15 business days. The bill increases the daily penalty for failure to file lobbyist registration statements and activity reports from \$10 per day to \$100 per day. It increases the maximum penalty for failure to file lobbyist registration statements and activity reports from \$100 to \$4,500. It requires the Lobby Registration Commission to make available on the Internet all reports, statements, and documents filed with the Commission and all manuals, indices, summaries, and other documents the Commission is required to compile, publish, or maintain.

Conflict of Interest: The bill defines "conflict of interest" for lobbyists. It requires lobbyists to file with the Indiana Lobby Registration Commission a description of the procedure that will be utilized if conflicts arise. It also requires the procedure to be incorporated into the lobbyist's contract with clients.

State Officeholder's Name in Media Advertisements: The bill provides that a state elected official may not use the state elected official's name or likeness in an audio, video, or newspaper publication paid for entirely or in part with appropriations made by the General Assembly, regardless of the source of the money. It provides that this prohibition does not apply to a communication made by the Governor concerning the public health or safety or by a state elected official for a publication that has a "compelling public policy reason" that is approved by the Budget Committee and the Budget Agency. The bill provides that a state elected official may use the title of the office the state elected official holds in a communication.

Fund-Raising and Candidate Documents: The bill provides that elected state officers and candidates for state office may not raise funds during the same period during the long session when legislators are barred from fund-raising. It removes a requirement that candidates for the General Assembly file candidate documents with the circuit court clerk. It requires the circuit court clerk to provide copies of legislative candidacy documents from the Election Division's or the Secretary of State's website to a person requesting to see these documents.

The bill makes technical changes and repeals superseded statutes.

Effective Date: (Amended) Upon passage; July 1, 2010; November 1, 2010; January 1, 2011; November 1, 2011.

Explanation of State Expenditures: *Statements of Economic Interests:* The bill requires that legislative

branch lobbyists report gifts and applicable purchases to the Indiana Lobby Registration Commission (ILRC). This requirement is meant to replace the current requirement that legislative branch statements of economic interests report gifts and purchases by a lobbyist from the filer's business. The ILRC is required to compile these reports on purchases and gifts and provide them to the appropriate legislator or candidate, which may increase administrative expenditures for the ILRC.

(Revised) *Lobbyist Gifts*: The ILRC will incur additional expenses as a result of the decrease in the daily minimum reportable gift amount from \$100 to \$50, and the decrease in the calendar year reportable expenditure amount from \$500 to \$250. The bill also requires legislative liaisons to report gifts to the ILRC.

The ILRC is responsible for creating the forms for reporting gifts to legislators. The ILRC is also required to prepare, publish, index, and make these reports available for public inspection. By decreasing the reporting amounts as provided in this bill and including legislative liaisons, the ILRC will have to spend more resources compiling these reports, and will also have to amend the forms for reporting gifts.

(Revised) *Lobbyist Reporting Requirements*: The bill requires the ILRC to make available on the Internet all reports, statements, and documents filed with the commission and all manuals, indices, summaries, and other documents the Commission is required to compile, publish, or maintain. The ILRC is also required to provide copies of all reports made by legislative liaisons under this bill on the Internet. These requirements may increase administrative expenditures for the ILRC.

(Revised) *Conflicts of Interest*: The bill requires lobbyists to file statements that the lobbyist and the lobbyist's client will follow if at any time they determine a possible conflict of interest. These statements will be filed at the same time as the lobbyists' annual registration statements.

The bill's requirements represent an additional workload on the ILRC, and existing staffing and resource levels, if currently being used to capacity, may be insufficient for full implementation. The additional funds and resources required could be supplied through existing staff and resources currently being used in another program or with new appropriations. Ultimately, the source of funds and resources required to satisfy the requirements of this bill will depend on legislative and administrative action.

Explanation of State Revenues: (Revised) *Lobbyist Reporting Requirements*: The bill changes the late fee penalty from \$10 per day to \$100 per day for each day after the deadline until the lobbyist registration statement or the activity report is filed. The late penalties for late registrations and activity reports shall not exceed \$4,500. There are usually 50 to 100 late filers each deadline, with two activity report deadlines and one registration deadline. The ILRC reports that gift reports are routinely late as well. Increasing the late fee will probably result in increased compliance with the deadlines.

Explanation of Local Expenditures: (Revised) *Candidate Documents*: The bill requires circuit court clerks to provide copies of legislative candidacy documents from the Election Division's or the Secretary of State's website to a person requesting to see these documents. Circuit court clerks must charge for copies of these records.

Explanation of Local Revenues:

State Agencies Affected: ILRC.

Local Agencies Affected: Circuit court clerks.

Information Sources: ILRC, 232-9860.

Fiscal Analyst: Jessica Harmon, 317-232-9854.